

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2001-758

September 12, 2002

DONNA MORTON et al., PETITIONERS  
Request for Waiver of the Basic Service  
Calling Area Rule, Chapter 204

ORDER GRANTING  
WAIVER REQUEST

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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**I. SUMMARY**

In this Order we grant, in part, petitioners' request for expansion of their Basic Service Calling Area (BSCA). We direct Maine Telephone Company, Standish Telephone Company, and Verizon-Maine (Verizon) to expand the BSCA of the Casco, Raymond, Naples, Sebago, and Bridgton exchanges to include local calling to and from each of those exchanges (see Attachment A, §3 for complete list of exchanges and BSCA options).<sup>1</sup> The expanded BSCA will allow the listed exchanges to call all of the municipalities in SAD 61 (Lakes Region School District).<sup>2</sup> We direct UI and Verizon to file proposed rates with supporting documentation within forty-five days following the date of this Order. We will provide an opportunity for the parties to address whether the proposed rates are reasonable. Following approval of the rates, the companies will file compliance tariffs.

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<sup>1</sup> As Maine Telephone and Standish Telephone are part of the same company, Utilities, Incorporated, we will refer to both companies collectively as "UI."

<sup>2</sup> The Harrison exchange, contiguous to the Bridgton exchange, serves a very small portion of the municipality of Bridgton, but the petitioners have always requested calling area expansion on the basis of municipalities, particularly those that are part of the school district. Because it would be necessary to add the whole of the Harrison exchange to the BSCAs of four other exchanges in order to include the very small portion of Bridgton that it serves, we have not included the Harrison exchange in the BSCA expansions ordered herein. We note that the Bridgton exchange is already part of the Harrison exchange's BSCA and that Harrison will be added to the Naples and Casco exchanges if we adopt the proposal in the rulemaking to add contiguous exchanges.

## II. BACKGROUND

On October 30, 2001, the Commission initiated a case in response to a petition requesting a waiver of the Commission's BSCA Rule (Chapter 204).<sup>3</sup> Petitioners (Donna Morton as lead petitioner) request expansion of the BSCA for the following exchanges: Casco, Naples, Sebago, Raymond, and Bridgton. The request states that all exchanges in the Lake Region School District (SAD 61) should be included in each other's toll free calling area; adjacent (contiguous) exchanges should be included in the toll free calling area; and the exchanges should have toll free access to communities that provide services not available in their rural area, in this case the exchanges of Portland and Windham. Maine Telephone Company, Standish Telephone Company, and Verizon Maine (UI and Verizon) serve the initiating and receiving exchanges. On October 30, 2001, the PUC Chair and Commission Staff attended a public meeting in Casco where many persons from the surrounding communities reiterated the desire for an expanded BSCA to include School Administrative District 61 (SAD 61), neighboring towns and other service centers.

Subsequent to the public meeting, the Commission received letters from a State Senator, a State Representative, area Town Managers, and many residents of the area supporting the requested expansion. Many of the writers specifically stated that their community of interest is the four towns that comprise the Lakes Region School District (SAD 61), and that the community is a social and economic community as well as an educational community.

On December 7, 2001, Staff issued two data requests, one to UI and one to Verizon, asking for information regarding call volumes and the revenue implications of the requested BSCA expansion. All companies requested and received extensions of time to submit the requested information. On March 29, 2002, UI and Verizon provided confidential responses to the data requests pursuant to a Protective Order issued April 5, 2002.

The UI response showed call volumes to the requested exchanges that were too low to satisfy the criterion in the BSCA rule, which requires that 50% of the subscribers of one exchange must make four or more toll calls to another exchange per month to qualify for BSCA expansion. Based on the revenue impacts for the studied exchanges, UI estimated take rates and monthly rate increases to partially cover the decreased toll and access revenues. UI proposed increases to the Economy and Premium Option rates, although the Premium increase was higher than the Economy increase.

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<sup>3</sup> On November 11, 2000, the lead petitioner, Donna Morton submitted more than 650 signatures supporting changes to the calling area of the Casco region. Initially, this petition was filed in support of proposed changes to the BSCA rule, Chapter 204 (Docket No. 2001-865).

Verizon's response also showed very low call volumes from its Bridgton exchange to the other UI Lakes Region exchanges. Verizon estimated high monthly rate impacts based on a very low option take rate.

Both UI and Verizon suggested in their data responses that this case could be subsumed in the BSCA rulemaking in progress, as many of the requested expansions would be added by operation of the proposed changes to the rule. The OPA and lead petitioner submitted documents opposing that suggestion.

On June 13, 2002, Commission staff conducted a Technical Conference at the request of the Public Advocate. Attending the conference were representatives of UI, Verizon, the Public Advocate, Saco River and Pine Tree Telephone, and the Telephone Association of Maine (TAM). Also attending was David Morton, Town Manager of Casco, and Neal Allen, resident of the Town of Sebago.

On July 31, 2002, the Presiding Officer issued a Recommended Decision (RD) with responses or exceptions due by August 12, 2002. Donna Morton; Dave Morton; Neal Allen; the Office of the Public Advocate (OPA); Utilities Inc (on behalf of Maine and Standish Telephone Companies); and Verizon submitted comments.

Donna Morton, Dave Morton, and Neal Allen supported the RD, stating also that the Commission should continue to consider adding service centers such as Portland and Windham to Casco's BSCA.

The Public Advocate supported the RD, because it appeared to meet many of the needs of the petitioners. However, the Public Advocate (PA) was concerned that the recommended decision lacks sufficient clarity with respect to the rates that will result from the decision. The PA wants more specific guidelines governing the calculation of increases and the ability to review the proposed rates.

UI states that it is willing to expand the calling areas as recommended in the RD. UI will follow the guidelines of the BSCA rule that allows for revenue neutrality in calculating losses and setting rates. The measured approach (fewer exchanges added than were requested) in the RD is an important factor in UI's non-objection. UI states that the requirements of the BSCA rule should be followed. UI does state, however, that its concurrence in the proposed decision is conditioned on its customers not having to pay for Verizon's lost toll revenue for traffic between UI exchanges (Sebago to and from Naples, Casco and Raymond). UI does not believe that UI customers should pay for lost interexchange carrier (IXC) toll to Verizon or other IXCs and that it would set an unreasonable precedent for the revisions to the BSCA rule. According to UI, a company should not be able to offset its toll losses by assessing customers of local exchange carriers. UI argues further that toll is competitive and should be subject to the changes in the market, including mandated changes by regulatory bodies.

Verizon stated that the recommended decision ignored many requirements of the BSCA rule, including call volume requirements, community of interest standards, and

the percentage of customers requesting the waiver. Verizon points out that the number of petitioners does not reach the required level of 30% or 1000 customers in each initiating exchange. The company stated that much of the recommended relief would be included in the proposed revisions to the BSCA rule and that implementing those changes in a concerted, single effort would be much more efficient as well as less costly. Verizon also stated that it needs clarification regarding cost recovery and rate setting. Verizon says that it was not clear whether it was the intent of the recommended decision that all companies should follow the guidelines of the BSCA rule, including the tracking account requirements.<sup>4</sup>

The Commission conducted deliberations on August 27, 2002.

### III. DECISION

We agree with the Companies that the proposed changes in Chapter 204 will address many of the petitioners' concerns. Nevertheless, we believe that we should not impose further delays in providing some relief to Petitioners. Verizon's comment that the proposed revisions to the BSCA rule would provide much of the requested relief is not wholly accurate. If the final version of the Rule adds contiguous exchanges, only two of the four requesting exchanges would add Bridgton to their BSCAs; only Bridgton and Naples would add Sebago. Casco (home exchange of the petitioners) would not add Bridgton or Sebago, all of which are not contiguous, but are part of the "Lakes Region community" that is largely defined by the Lakes Region School Administrative District. Similarly, the Raymond exchange (which serves more than half the customers in the Town of Casco) would not add Naples, Bridgton, or Sebago. While we are concerned about the low call volumes between the exchanges in this expansion, we have given weight to the strong and apparently broad support for the petitions in the community, evidenced by the high number of signatures, attendance at public meetings, and letters. We also realize that there are other factors that may influence low call volume results, including cellular telephone use, presubscription to non-Verizon toll plans (i.e. competing companies and pre-paid calling cards), and self-imposed restrictions on toll use by households.

We thus conclude that a strong community of interest exists for the area that comprises the Lakes Region and Lakes Region School District.<sup>5</sup> Petitioners have

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<sup>4</sup> Verizon's comments did not address the issue of lost Verizon toll revenue for calls between UI exchanges that was addressed in UI's comments.

<sup>5</sup> On May 7, 1996, in *John Ray, et al., v. New England Telephone Company d/b/a NYNEX*. Request for Commission Investigation into Whether the Cities of Bridgton, Casco, Naples, and Sebago Become One Local Calling Area, Docket No. 95-118, the Commission dismissed a similar request for this area (SAD 61) to be one local calling area, stating that developing Premium calling areas based on only one criterion, such as School Administrative Districts, does not necessarily reflect the complete community of interest.

repeatedly stated that the connection to the school district was the most important facet of their request. As Mr. Morton stated at the Technical Conference, “our community is the Lake Region School District and encompasses four towns . . . Sebago, Bridgton, Naples, and Casco.” Mr. Allen added:

[T]here are the four communities that are closely bound because of many different reasons, the school district being one, but economically and socially.

So, it's not just kids getting on the telephone at night talking to one another. There are small business relationships; there is a lot of social back and forth, coordination of kids and coordination of community events and that sort of thing.

While other issues were present in this case, such as the ability to call friends and neighbors and access to service centers such as Windham and even Portland (27 airline miles away from Casco), we believe that the community defined by the school district is both the most prominent and distinct feature, and one that allows for an affordable expansion. We conclude that the information presented to us by the petitioners and the companies demonstrates that a sufficient community of interest exists for the area known as the “Lakes Region,” which comprises the municipalities that are members of the Lakes Region School District. We therefore approve, in part, the request for waiver of the BSCA rule.

We direct Maine Telephone Company, Standish Telephone Company, and Verizon-Maine to expand the BSCA of the Casco, Raymond,<sup>6</sup> Naples, Sebago, and Bridgton exchanges to include calling to and from each of those exchanges (see Attachment A, §3 for a complete list of exchanges and BSCA options). We direct Maine Telephone Company, Standish Telephone Company, and Verizon-Maine to file proposed rates with supporting documentation within forty-five days of the date of this Order.<sup>7</sup> Maine and Standish should recommend rates that follow the guidelines of Chapter 204 and are based on the information provided in its data request response, recognizing that we are granting a smaller and slightly different BSCA expansion than that which the companies studied. Verizon should recommend rates for the Bridgton exchange that follow the guidelines of Chapter 204. The companies should also recognize that there are possible rate design implications of the proposed changes to Chapter 204. Finally, Standish and Maine Telephone Companies should be aware of and take into account the requirements of Chapter 288 of our Rules (High Cost

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<sup>6</sup> The Town of Raymond does not participate in SAD 61. However, the Raymond exchange of Maine Telephone Company serves more than half of the Town of Casco, which does participate in SAD 61.

<sup>7</sup> The Companies should not file a special, third rate (e.g., “Premium Plus,” as originally suggested in Docket No. 2001-865) for these exchanges, as the data indicates that such a rate would be extraordinarily high because, at least at present under the existing rate structure, relatively few customers make a large number of calls within the five exchanges.

Universal Service Fund). Both companies stated at the Technical Conference that it is almost certain that they will apply for state universal service funding following their next rate cases. The Rule provides as a condition of receiving USF that the recipient LECs establish rates that are no less than those of Verizon for equivalent calling areas.

Dated at Augusta, Maine this 12<sup>th</sup> day of September 2002

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Nugent  
   Diamond

**NOTICE OF RIGHTS TO REVIEW OR APPEAL**

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 21 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.